

### **Remarks**

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

In responding to Applicant's previous patentability arguments, the Examiner states that the term "containing" (line 1 of claim 1) opens the claim to the inclusion of unrecited elements such as the organic acids of Higo et al. This is of course responsive to Applicants' previous argument that the reference discloses a combination of an organic acid and absorption enhancer (e.g. a higher fatty acid). But Applicants also argued that this combination of organic acid and absorption enhancer is present in the adhesive layer of the reference. On the other hand, claim 1 indicates that the adhesive layer consists of the recited components, thus excluding the organic acid of Higo et al.

Nevertheless, claim 1 has now been amended to avoid the terms "containing" and "contain". Applicants also note that the expression "containing tulobuterol" in line 1 of claim 1 can be considered unnecessary, since tulobuterol is recited later in claim 1. Accordingly, this expression has also been deleted.

Claim 2 has been amended to delete "above", which is unnecessary in view of "the" before "adhesive layer".

Applicants respectfully submit that these amendments should be entered even though they are being presented after a final rejection. As indicated above, Applicants previously argued that the combination of organic acid and absorption enhancer is present in the adhesive layer of the Higo et al. reference, whereas claim 1, prior to the amendment, indicates that the adhesive layer consists of the recited components, thus excluding the organic acid of the Higo et al. reference. Amended claim 1 as set forth above still contains this limitation, but in addition avoids the terms "containing" referred to by the Examiner.

The patentability of the presently claimed invention over the disclosure of the reference relied upon by the Examiner in rejecting the claims will be apparent upon consideration of the following remarks.

Thus, the rejection of claims 1-3 under 35 U.S.C. §103(a) as being unpatentable over Higo et al. is respectfully traversed.

The statement of this rejection on pages 2-3 of the Office Action is the same as in the previous Office Action. Referring to the Examiner's response to Applicants' previous patentability arguments, and as noted above, claim 1 has now been amended to avoid the terms "containing" and "contained". Accordingly, it is clear that the organic acid of Higo et al. has been excluded from the adhesive layer in the present invention. There is absolutely no suggestion in the Higo et al. reference which would lead one of ordinary skill in the art to use a higher fatty acid such as a C<sub>11-22</sub> fatty acid **alone**, instead of a **combination of an organic acid and absorption enhancer** as described in the reference.

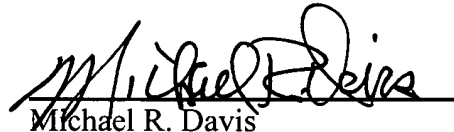
For these reasons, Applicants take the position that the presently claimed invention is clearly patentable over the applied reference.

Therefore, in view of the foregoing amendments and remarks, it is submitted that the ground of rejection set forth by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

Respectfully submitted,

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